

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Jenkinjones Post Office
Jenkinjones, West Virginia

Docket No. A2012-15

ORDER AFFIRMING DETERMINATION

(Issued February 2, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”.¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011 at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 17, 2011, Mrs. Thomas Vineyard (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Jenkinjones, West Virginia post office (Jenkinjones post office).² An additional petition for review was received from May Bridgeman (Petitioner Bridgeman).³ The Final Determination to close the Jenkinjones post office is affirmed.

II. PROCEDURAL HISTORY

On October 20, 2011, the Commission established Docket No. A2012-15 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On October 31, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

² Petition for Review received from Mrs. Thomas Vineyard regarding the Jenkinjones, West Virginia Post Office 24848, October 17, 2011 (Petition).

³ Letter Received from May Bridgeman Regarding the Jenkinjones, WV Post Office 24848, October 28, 2011 (Bridgeman Petition). The Bridgeman Petition contains substantially the same arguments as the Petition.

⁴ Order No. 916, Notice and Order Accepting Appeal and Establishing Procedural Schedule, October 20, 2011.

⁵ The Administrative Record is attached to the United States Postal Service Notice of Filing, October 31, 2011. On November 29, 2011, the Postal Service filed a Corrected Administrative Record (Administrative Record), because the previous record omitted pages 10-45. United States Postal Service Notice of Filing Corrected Administrative Record–Errata, November 29, 2011. The Administrative Record includes, as Item No. 47, the Final Determination to Close the Jenkinjones, West Virginia Post Office and Extend Service by Highway Contract Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, December 12, 2011 (Postal Service Comments).

Petitioner filed a participant statement supporting her Petition.⁷ On December 27, 2011, the Public Representative filed a reply brief.⁸

III. BACKGROUND

The Jenkinjones post office provides retail postal services and service to 78 post office box customers. Final Determination at 2. No delivery customers are served through this office. The Jenkinjones post office, an EAS-55 level facility, has retail access hours of 8:00 a.m. to 12:00 p.m., and 12:30 p.m. to 3:15 p.m. Monday through Friday, and 8:00 a.m. to 9:45 a.m. on Saturday. Lobby access hours are 8:00 a.m. to 3:30 p.m., Monday through Friday, and 8:00 a.m. to 10:00 a.m. on Saturday. *Id.*

The postmaster position became vacant on June 30, 2009 when the Jenkinjones postmaster retired.⁹ An officer-in-charge (OIC) was installed to operate the office. Final Determination at 2. Retail transactions average 17 transactions daily (16 minutes of retail workload). Office receipts for the last three years were \$21,239 in FY 2008; \$19,402 in FY 2009; and \$20,978 in FY 2010. There are no permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$30,050 annually. *Id.* at 6.

After the closure, retail services will be provided by the Anawalt post office located approximately 3 miles away.¹⁰ Delivery service will be provided by highway contract route service through the Anawalt post office. *Id.* The Anawalt post office is an EAS-13 level office, with retail hours of 7:30 a.m. to 12:00 p.m. and 12:30 p.m. to

⁷ Participant Statement received from Mr. and Mrs. Tomas Vineyard, November 14, 2011 (Participant Statement).

⁸ Comments of the Public Representative, December 27, 2011 (Public Representative Comments).

⁹ The Final Determination states that the Jenkinjones postmaster was promoted on June 30, 2008. *Id.* at 2. Petitioner states that this is inaccurate, the Jenkinjones postmaster retired on that date. Petition at 1. The Postal Service corrected this inaccuracy in its Comments, stating that the postmaster retired on June 30, 2009. Postal Service Comments at 13.

¹⁰ *Id.* at 2. MapQuest estimates the driving distance between the Jenkinjones and Anawalt post offices to be approximately 3.6 miles (9 minutes driving time).

3:15 p.m., Monday through Friday, and 8:00 a.m. to 10:45 p.m. on Saturday. *Id.* Two-hundred and twelve post office boxes are available. The Postal Service will continue to use the Jenkinjones name and ZIP Code. *Id.* at 5, Concern No. 2.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Jenkinjones post office. Petitioners assert that the Postal Service's estimates of economic savings are inaccurate as the Jenkinjones post office employs an OIC rather than a postmaster. Petition at 1; see *also* Bridgeman Petition at 1. Petitioners note there is an inaccuracy in the Final Determination, indicating that the Jenkinjones postmaster retired on June 30, 2008 rather than being promoted. Petition at 1; see *also* Bridgeman Petition at 1.

Petitioner contends that the Administrative Record is inaccurate because the facts stated by the Postal Service are not correct. Participant Statement at 1-2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Jenkinjones post office. Postal Service Comments at 2. The Postal Service believes the appeal raises two main issues: (1) calculation of the economic savings expected to result from discontinuing the Jenkinjones post office; and (2) factual errors in the Administrative Record. *Id.* The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Jenkinjones post office should be affirmed. *Id.* at 14-15.

The Postal Service explains that its decision to close the Jenkinjones post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- little recent growth in the area;

- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Jenkinjones community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on postal services, effect on the Jenkinjones community, economic savings, and effect on postal employees. *Id.* at 14-15.

Public Representative. The Public Representative concludes that the Postal Service followed applicable procedures, that the decision to close the Jenkinjones post office is supported by substantial evidence and is neither arbitrary nor capricious. Public Representative Comments at 1.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in reaching its Final Determination. On April 16, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Jenkinjones post office. Final Determination at 2. A total of 98 questionnaires were distributed to delivery customers. *Id.* Other questionnaires were made available at the retail counter. *Id.* A total of 21 questionnaires were returned. On April 11, 2011, the Postal Service held a community meeting at Jenkinjones Methodist Church to address customer concerns. Thirty-one (31) customers attended. *Id.*

The Postal Service posted the proposal to close the Jenkinjones post office with an invitation for comments at the Jenkinjones and Anawalt post offices from May 23, 2011 through July 24, 2011. *Id.* at 2. The Final Determination was posted at the same two post offices from September 9, 2011 through October 11, 2011. *Id.* at 1. Administrative Record, Item No. 49-50.¹¹

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

¹¹ The table of contents of the Administrative Record lists the Round-Date Stamped Final Determination as Item Number 49, but in the substance of the record, there are two such record items: Items 49 and 50.

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Jenkinjones, West Virginia is an unincorporated community located in McDowell County, West Virginia. Administrative Record, Item No. 16. The community is administered politically by McDowell County Commission. Police protection is provided by McDowell County Sheriff. Fire protection is provided by Anawalt Fire Department. The community is comprised of retirees, commuters, and coal mining families. Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Jenkinjones community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Jenkinjones post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 5.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Jenkinjones postmaster retired on June 30, 2009 and that an OIC has operated the Jenkinjones post office since then. Postal Service Comments at 13.¹² It asserts that after the Final Determination is

¹² The Postal Service acknowledges that the Administrative Record mistakenly indicates that the Jenkinjones postmaster was promoted. Postal Service Comments at 12.

implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. Final Determination at 6.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Jenkinjones post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Jenkinjones customers. Postal Service Comments at 6-8. It asserts that customers of the closed Jenkinjones post office may obtain retail services at the Anawalt post office located 3 miles away. Final Determination at 2. Delivery service will be provided by highway contract route service through the Anawalt post office. *Id.* The 78 post office box customers may obtain Post Office Box Service at the Anawalt post office, which has 212 boxes available. *Id.*

For customers choosing not to travel to the Anawalt post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 6-7. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$30,050. Final Determination at 6. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,740) and annual lease costs (\$5,200), minus the cost of replacement service (\$5,890). *Id.*

Petitioner asserts that the Postal Service's estimates of economic savings are inaccurate as the Jenkinjones post office currently employs an OIC at a lower salary than a postmaster. Petition at 1.

The Commission has previously observed that the Postal Service should include in its estimate of savings those costs likely to be eliminated by the closing. The Jenkinjones post office postmaster retired on June 30, 2008. Final Determination at 2.

The office has since been staffed by a non-career OIC who, upon discontinuance of the office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67 United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Jenkinjones post office has been staffed by an OIC for three years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Jenkinjones post office is affirmed.

It is ordered:

The Postal Service's determination to close the Jenkinjones, West Virginia post office is affirmed.

By the Commission.

Ruth Ann Abrams
Acting Secretary

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Jenkinjones post office has been operated by an officer-in-charge (OIC) since the former postmaster retired on June 30, 2009. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

In addition, the Administrative Record describes stable revenue over the last 3 years. This stable revenue affirms the Petitioner's argument that the Postal Service did not adequately consider the impact on the community and contradicts the Postal Service's list of reasons to consider closing the post office, which includes a statement that there is declining revenue. Interest in the use of the mail in a community and the potential for growth should be considered as part of both the economic impact and the impact on the community. Therefore, the Postal Service did not adequately consider the impact of the closure on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Jenkinjones, West Virginia and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career employee has been in charge of this facility since June 2009, not an EAS-55 postmaster, and reflect the non-career employee's salary and benefits in its cost savings analysis. Postal Service Comments at 12. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Jenkinjones post office and should be remanded.

Nanci E. Langley